



STATE OF CONNECTICUT

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Honorable Members of the Aging Committee

FROM: Beverly Streit-Kefalas
Probate Court Administrator

RE: Senate Bill No. 264, An Act Concerning A Qualified Deduction From Medicaid Applied Income For Conservator Costs

DATE: March 8, 2022

Thank you for the opportunity to testify on Senate Bill No. 264, An Act Concerning A Qualified Deduction From Medicaid Applied Income For Conservator Costs. The provisions of S.B. 264 were proposed during the 2021 session, and were favorably reported out of the Aging Committee.

The legislation will enable our state to begin receiving federal Medicaid reimbursement for monies expended in providing conservators for indigent conserved persons. It will also have no impact on the conserved person and it will allow for more efficient financial management by the conservator. And significantly, federal reimbursement will save the state an estimated \$800,000 annually.

Conservatorship is a critically important part of our state's safety net for elders with dementia and individuals with mental illness and intellectual disability. More than 22,000 Connecticut residents rely on a conservator to arrange housing, medical care, nutrition and personal safety. Conservators also manage conserved persons' finances and, for those who are indigent, apply for Medicaid and other public-assistance programs.

For a person with mental illness living in the community, a conservator managing finances can be the difference between a safe apartment and homelessness. For many seniors with dementia, nursing home care would be a necessity but for the home care services that a conservator puts in place. The services of conservators save the state hundreds of millions every year by avoiding more costly services, and align with state government goals that favor cost-effective community-based service delivery over institutionalized care.

Our state looks to the Probate Courts to find conservators for conserved persons who have no family

or close friends and to pay for the services of the conservator when the conserved person is indigent. It is a significant responsibility borne by attorneys and other professionals who are willing to serve as conservator in these circumstances.

This mandate places a heavy strain on the finances of the Probate Court system. The total annual expenditure was \$5.5 million in FYE June 30, 2021, representing 11% of the system's annual expenses.

The bill addresses this escalating cost by making specified conservatorship expenses eligible for federal Medicaid reimbursement. The bill would accomplish this result through an amendment to the state Medicaid plan that would allow the following items to be deducted from the income of a Medicaid-eligible nursing home resident:

- Court-approved conservator compensation
- Probate Court fees
- Probate bond premiums
- Other fiduciary expenses

It is important to note that this bill will have no impact on the conserved person. They will continue to receive all the governmental benefits to which they are entitled. There will be no adverse impact on the care they receive. And there will also be no limitation on the conservator in ensuring the least restrictive means of assisting the conserved person are met.

This bill will also have no negative impact on the conservator in meeting their duties and responsibilities to the conserved person. The positive impact on the conservator will be the increased efficiency in directly receiving court-approved compensation from the conserved person's assets and reimbursement of fiduciary expenses. An additional positive outcome is that the pool of attorneys and other non-lawyer professionals willing to serve as conservator may in fact increase. Many of these cases require intensive attention and management by the fiduciary and thus the pool of professionals willing to take on this important responsibility is not large.

By permitting payment of these items directly from the conserved person's income, the arrangement also relieves the Probate Court system of the expense and should result in administrative efficiencies as well. Although this arrangement will cause the state's Medicaid spending to increase by an equivalent amount (this is because the portion of the conserved person's income that is used to pay the conservatorship expenses is not available to pay for nursing-home care), it will result in the state receiving a 50% federal reimbursement for the additional Medicaid spending. The net result is a 50% reduction in the state's overall outlay, a savings of approximately \$800,000 per year.

Several states have already secured the necessary federal approval to implement this structure, including our neighbors in Massachusetts, Rhode Island and Vermont.

Notably, the effect of Section 1(c) of the bill is to allocate the savings from this legislation to the state's General Fund, rather than the Probate Courts. This results from the requirement that the Probate Courts reimburse the General Fund for the amount of conservatorship expenses paid from the income of conserved persons. The General Fund thus receives 100% reimbursement for its Medicaid expenditure: one-half to be transferred from the Probate Courts in addition to the 50% federal Medicaid reimbursement.

We support Senate Bill No. 264 but note that we recommend a change to the baseline conservator compensation set forth in section 2. In particular, contract conservators in the Probate Courts receive a monthly compensation of \$90.00 per month and we suggest the baseline compensation be aligned with that rate.